S.B. CIVIL WRIT PETITION NO.424/2005
Lekh Ram vs. Board of Revenue and others.

Date : 20.1.2005

HON'BLE MR. PRAKASH TATIA, J.

Mr. K.S. Gill, for the petitioner.

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Heard learned counsel for the petitioner.

Learned counsel for the petitioner submits that after having a decision supporting the petitioner from this Court, the petitioner prayed for appointing a receiver on the land in dispute which the Revenue Appellate Authority, Sri Ganganagar in Appeal No.41/2004, after hearing both the parties, allowed the petitioner's application for appointment of receiver vide order dated 11.11.2004. However, in view of the provisions under Section 212 of the Land Revenue Act, the private respondents were permitted to keep the possession on furnishing cash security at the rate of Rs.3,000/- per bigha by 15.12.2004.

According to learned counsel for the petitioner, the respondents did not comply with the above order of Revenue Appellate Authority and the Receiver took possession of the land in dispute on 31.12.2004. It is also submitted that the private respondents challenged the order of Revenue Appellate Authority dated 11.11.2004 before the Board of Revenue by filing revision petition. In the revision petition, the Board of Revenue specifically by recording in the order-

sheet dated 7.12.2004 did not pass any order in favour of the private respondents. On 14.12.2004, the Board of Revenue, after hearing on the application of the private respondents, rejected the same after holding that no stay order is being passed in their favour.

The petitioner is aggrieved by the order dated 14.1.2005 passed by the Board of Revenue by which it ordered that in case, the private respondents deposit the amount as ordered by the Revenue Appellate Authority within seven days, then the possession of land may be handed over to them.

According to the learned counsel for the petitioner, when the private respondents did not comply with the order dated 11.11.2004 and failed in getting any interim order from the Board of Revenue twice, then the Board of Revenue should not have passed the order of redelivery of possession to the private respondents on their paying the amount within seven days from the date of order of Board of Revenue.

I have considered the submissions and have perused the impugned order.

I do not find any force in the submission of the petitioner that since the stay petition was dismissed by the Board of Revenue, the Board of Revenue could not have extended time for depositing of the amount in

pursuance of the order of Revenue Appellate Authority. The Revenue Appellate Authority itself granted time to the respondents to deposit the amount by 15.12.2004. The petitioner could have sought stay order against the order of Revenue Appellate Authority dated 11.11.2004 from the Board of Revenue in which the Board of Revenue could have stayed the operation of the order itself or could have passed any other appropriate order. The rejection of the stay application by the Board of Revenue only makes the order dated 11.11.2004 as continue to operate till the decision of the revision petition preferred by the private respondents to challenge the order dated 11.11.2004. The extension of time to comply with the directions as given in the impugned order has entirely different aspect because by that, the respondents only obey the direction as issued by the order dated 11.11.2004 and is not seeking any relief contrary to the directions as given in the order dated 11.11.2004.

In the present case, it appears that the respondents could have deposited the amount by 15.12.2004 and after showing reasons for extension of time, the petitioner submitted application before the Board of Revenue on 27.12.2004, therefore, there is delay of 12 days from 15.12.2004 in moving the application and the Board of Revenue after considering the facts of the case, permitted more time to the petitioner. As such, this Court cannot interfere in

the discretion exercised by the court below for extension of time to deposit the amount for a short period of even less than one month only. It is question of keeping possession of the property on payment of money only and as such, the period for payment of money can be extended somewhat liberally.

The apprehension of the learned counsel for the petitioner that the Board of Revenue since permitted the private respondents to deposit the amount in two instalments will prejudice the case of the petitioner before the Board of Revenue has no basis because the Board of Revenue will decide the revision petition on its own merits and not influenced by the interim order.

In the totality of the circumstances, there appears no reason to interfere in the impugned order under writ jurisdiction. Accordingly, this writ petition, having no merit, is hereby dismissed.

(PRAKASH TATIA), J.

S.Phophaliya